

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Petition File No. 566

BOARD STAFF EVALUATION

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## **INTRODUCTION**

Petition File No. 566 (Petition) was submitted by Mark Sale (Petitioner) on June 21, 2017. The Petition seeks to require employers to provide two-handled disposable poly bags to employees in an effort to reduce injuries caused by improper lifting of traditional bags in a variety of industries.

## **REQUESTED ACTION**

The Petitioner requests the Board amend Title 8...

To mandate the use of disposable poly bags with secondary handle (two handled bag), [and require] all employers, throughout all industries to provide employees the opportunity to perform a two handed lift, or two person lift when handling bags.

## **PETITIONER ASSERTIONS**

The Petitioner claims that “traditional trash / linen / contractor / recycle / landscape” bags are ubiquitous in all industries and are lifted approximately 12 billion times per year by employees with a myriad of job titles. He asserts that lifting the bags by one hand (due to the absence of a secondary handle) leads to numerous injuries throughout California.

The Petitioner provides information on practical reasons a company could benefit from using the proposed bags, including reduced worker injury, improved morale, and lower workers compensation costs. He also includes testimony from an economist, who claims that using the two-handles bags would result in a return on investment of \$25 to every \$1 spent on the bags.

## **STAFF EVALUATION**

### **Relevant Standards**

**Federal Standards:** Federal OSHA 1910.141 “Sanitation” briefly discusses waste receptacles, but does not prohibit nor require two-handled trash bags. Federal regulations do not include standards comparable to California’s Sections 3203 or 5110.

## **California Standards:**

Section 3203 “Injury and Illness Prevention Program” requires employers to identify and control workplace hazards through specific training, controls, and personal protective equipment where necessary.

Section 5110 “Repetitive Motion Injuries” requires employers who have experienced two or more identical repetitive motion injuries in the past year to develop a program designed to minimize such injuries.

**Consensus Standards:** Several organizations provide information on best practices for material handling, including proper lifting techniques, though staff is unaware of any consensus standards directly addressing two-handled bags.

## **Position of Division**

As of the date of this evaluation, no report has been received from the Division.

## **Analysis**

Staff applauds the Petitioner’s efforts to improve workplace safety and health in California, but does not see a need to prescribe that “all employers throughout all industries”, as described above, use such bags. In fact, doing so may render the Board non-compliant with Government Code Section 11340.1, which explains that...

[It is the Legislature’s intent] to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome [to an individual or entity].

Rulemaking agencies are discouraged from prescribing regulations that provide a sole means of protection from a hazard where there are other options that are equally effective. In the present case, several options exist to prevent awkward postures and over-exertions when lifting bags. Secondary containers, automated lifts, buddy systems, and limitations on the amount of weight that may be placed in a bag before it must be emptied or discarded are a few of the several options available to safety-conscious employers trying to prevent these injuries.

Board staff believes that California’s Injury and Illness Prevention Program standard is sufficient to address the hazards identified by the Petitioner and does not recommend

further rulemaking for this matter. Where employers find workplace hazards, they are required to address them as appropriate for their circumstances.

### **STAFF RECOMMENDATION**

Consistent with the foregoing discussion, Board staff does not believe that the Petitioner's request has merit and recommends that Petition File No. 566 be DENIED.